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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,526	07/30/2003	Dennis G. A. Nelson	PC9668-C2-03-DCL	7697
29668	7590	07/18/2005	EXAMINER	
PFIZER, INC. 201 TABOR ROAD MORRIS PLAINS, NJ 07950			GITOMER, RALPH J	
			ART UNIT	PAPER NUMBER
			1655	
DATE MAILED: 07/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/630,526

Applicant(s)

NELSON ET AL.

Examiner

Ralph Gitomer

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) 32-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Applicant's election with traverse of Group I, claims 21-31 in the reply filed on 6/16/05 is acknowledged. The traversal is on the ground(s) that the same search is required for both groups. This is not found persuasive because compositions and methods are distinct inventions.

The requirement is still deemed proper and is therefore made FINAL.

Please update the continuing information in the specification. Priority is granted to 3/12/1999.

It would appear the point of novelty may reside in the dementholated mint flavoring in the composition. A search reveals the references of record do not teach or fairly suggest this limitation.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 21-25, 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards.

Edwards (6,193,958 B1) entitled "Oral Compositions" with a 102(e) date of 1/14/99, teaches in the abstract, mouthwash containing silicone surfactant. In column 5 aminoalkyl silicone surfactants are taught with flavorants that include menthol. In column 7 alkyl sulphates and potassium salts such as pyrophosphate salts and nitrate are shown.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-25, 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by each of Hughes and Hughes.

Hughes (6,004,538) entitled "Oral Compositions" with a 102(e) date of 10/28/97, teaches in the abstract, mouthwash with dimethicone copolyols. In column 4 line 59 menthol is shown. In column 6 line 34 alkyl sulfates are taught. And in column 7 line 40 potassium nitrate is disclosed.

Hughes (5,827,505) entitled "Oral Compositions" with a 102(e) date of 9/30/97, teaches in the abstract, mouthwash with dimethicone polyols. In column 3 line 59 menthol is shown. In column 5 line 33, alkyl sulfates are taught. And in column 6 line 38, potassium nitrate is disclosed.

All of the features of the claims are taught by the above references for the same function as claimed.

Claims 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 6/16/05 have been fully considered but they are not persuasive.

Applicants argue that the references do not address compatibility issues with potassium salts with alkyl sulfate surfactants.

It is the examiner's position that each of the components encompassed by the present composition claims are taught by each of the above cited references.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the following applies in all occurrences.

Each claim must end with a single period. Dependent claims must begin with a definite article. In claim 28 "or a synthetic blend" does not state a blend of what.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The abstract of the disclosure is objected to because it contains legal terminology. Correction is required. See MPEP § 608.01(b).

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gorlin (5,833,956) teaches oral surfactants.

Alvarez Hernandez (6,432,388) teaches tooth paste.

McLaughlin (5,686,063 and 5,681,549) teach clear mouthwash.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (571) 272-0916. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campbell can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ralph Gitomer  
Primary Examiner  
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